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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,791	03/04/2004	Yoshihiro Nakao	47635-0002	5495
	7590 03/26/200 DDLE & REATH (DC)	EXAMINER		
1500 K STREE		MARTINELL, JAMES		
SUITE 1100 WASHINGTO	N, DC 20005-1209		ART UNIT	PAPER NUMBER
			1634	
			MAIL DATE	DELIVERY MODE
			03/26/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
10/791,791	NAKAO ET AL.		
Examiner	Art Unit		

NOTICE OF APPEAL 2. ☑ The Notice of Appeal was filed on 01 February 2008. A brief in compliance with 37 CFR 41.37 (must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(m)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS 3. ☑ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☑ They raise new issues that would require further consideration and/or search (see NOTE below); (b) ☑ They raise the issue of new matter (see NOTE below); (c) ☑ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). 4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. ☑ Applicant's reply has overcome the following rejection(s): none. Solution of the claim(s). The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment canceling the non-allowable claim(s). The status of the claim(s) is (or will be) as follows: Claim(s) allowed: none. Claim(s) ejected: 1-9.33 and 47-50. Claim(s) ejected: 1-9.33 and 47-50. Claim(s) withdrawn from consideration: 10-32 and 34-46. AFFIDAVIT OR OTHER EVIDENCE 3. ☑ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). □ ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry		James Martinell	1634	
 I. Simple reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid beandomment of this application, application in simply file one of the following replies: (1) an amendment, affauty, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.14. The reply must be filed within one of the following time pariods:	The MAILING DATE of this communication appe	ars on the cover sheet with the c	orrespondence add	ress
 I. Simple reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.14. The reply must be filed within one of the following replication in condition for reply expiresmonths from the mailing date of the final rejection. The period for reply expiresmonths from the mailing date of the final rejection. The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no evert, however, will be statutory period for reply expires on: (1) the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRML REJECTION. See MFEP 705 07(7). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee number 57 CFR 1.17(b) is calculated from: (1) the expiration date of the shortered statutory period for reply originally set in the final Office action. (2) as may reduce any exerced patent term adjustment. See 37 CFR 1.70(b). NOTICE OF APPEAL 2. All The Notice of Appeal was filed on 01 February 2008. A biref in compliance with 37 CFR 41.37(e) to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the imperiod set forth in 37 CFR 41.37(a). All The Notice of Appeal was siled on 01 February 2008. A biref in compliance with 37 CFR 41.37(b) to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the imperiod set forth in 37 CFR 41.37(a). All The proposed amendment(s) filed after a final	THE REPLY FILED 01 February 2008 FAILS TO PLACE THIS	APPLICATION IN CONDITION FO	R ALLOWANCE.	
a) ☐ The period for reply expiresmonths from the mailing date of the final rejection. b) ☐ The period for reply expires on: (1) the mailing date of the Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statulory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. Examiner Notic: If box it is checked, check other box (a) or (b) ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See NFEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee nave been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee nave been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee nave been filed in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, over if timely filed, may reduce any amend patent term adjustment. See 37 CFR 1.70(a) for a file and proper in the file of the fi	 The reply was filed after a final rejection, but prior to or on application, applicant must timely file one of the following r application in condition for allowance; (2) a Notice of Appe for Continued Examination (RCE) in compliance with 37 C 	the same day as filing a Notice of A eplies: (1) an amendment, affidavit al (with appeal fee) in compliance	Appeal. To avoid abar ., or other evidence, w with 37 CFR 41.31; or	hich places the (3) a Request
Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee nave been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked, Any reply received by the Office date than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). VOITCE OF APPEAL 2. A The Notice of Appeal was filed on 01 February 2008. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). **MENDMENTS** 3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) they raise new issues that would require further consideration and/or search (see NOTE below); (b) They raise the issue of new matter (see NOTE below); (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). 4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. Applicant's reply has overcome the following rejection(s): none. Claim(s) proposed or amended claim(s) would be rejected is provided below or appended. The status of the claim(s) is for will be) as follows: Claim(s	a) The period for reply expiresmonths from the mailing b) The period for reply expires on: (1) the mailing date of this Adno event, however, will the statutory period for reply expire la Examiner Note: If box 1 is checked, check either box (a) or (l)	lvisory Action, or (2) the date set forth i ter than SIX MONTHS from the mailing b). ONLY CHECK BOX (b) WHEN THE	date of the final rejection	n.
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	12. ☐ Note the attached Information <i>Disclosure Statement</i>(s). (13. ☐ Other:	PTO/SB/08) Paper No(s)		
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Continuation of 3. NOTE: The amendment to include "strain S288C" (proposed claim 1) would require further search and/or consideration, particularly in connection with enablement and availability of the recited strain.